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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,355	03/01/2004	Khari S. Clarke	206.00360101	9409
26813	7590	09/20/2005	EXAMINER	
MUETING, RAASCH & GEBHARDT, P.A. P.O. BOX 581415 MINNEAPOLIS, MN 55458			TORRES, ALICIA M	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/790,355	Applicant(s) CLARKE, KHARI S.	
	Examiner Alicia M. Torres	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 is/are allowed.
- 6) ☒ Claim(s) 1-12, 15, 16 and 18-21 is/are rejected.
- 7) ☒ Claim(s) 13, 14 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/23/04, 12/16/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Schantz et al. 3,196,971.

3. Regarding claims 1, 2, 9, Schantz discloses a power unit, comprising:

- A housing (56)
- A lockable handle assembly (40) comprising
 - First and a second handle members (122, 124) pivotally coupled to the housing
- A handle assembly release (140) comprising a release member operable to impart a releasing force simultaneously to the handle members (122, 124) to unlock the handle assembly from the first operating position, the force at least partially reacted by the housing (56), as per claim 1
- The release member (140) comprising a lever operable to pivot about an axis transverse to a longitudinal axis of the unit, as per claim 2
- The handle assembly is movable to a storage position, as per claim 9.

4. Regarding claims 10-12, Schantz discloses a mower (20), comprising:

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- A housing (56)
- A lockable handle assembly (40) pivotally coupled to the housing (56) comprising a handle member (124)
- A handle assembly release (140) comprising a lever pivotable about an axis transverse to a longitudinal axis of the mower (20) and operable to impart a releasing force to the handle member (124) to unlock the member, as per claim 10
- The force partially reacted by the housing (56), as per claim 11
- A handle retention portion (126, 128) operable to pivotally receive the handle assembly (40), as per claim 12.

5. Claims 1, 3, 4, 15, 16, 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Nepper et al. 3,764,156.

6. Regarding claims 1, 3, 4, Nepper discloses a power unit, comprising:

- A housing (10)
- A lockable handle assembly (12) comprising
 - First and a second handle members (12) pivotally coupled to the housing
- A handle assembly release (16) comprising a release member (42) operable to impart a releasing force simultaneously to the handle members (12) to unlock the handle assembly from the first operating position, the force at least partially reacted by the housing (10), as per claim 1
- First and second handle retention portions (14) for pivotally receiving the handle members (12), as per claim 3

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- The release member (42) comprises contact portions (32) operable to simultaneously slide between both the handle retention portions (14) and the handle members (12), as per claim 4.

7. Regarding claims 15, 16, 18-21, Nepper et al. discloses a mower comprising:

- A housing (10) having first and second handle retention portions (14)
- A lockable handle assembly (12) comprising first and second handle members pivotally coupled to the handle retention portions (14)
- A handle assembly release (16) operable to unlock the handle assembly (12), comprising a lever member (42) operable to simultaneously apply a separating force between the handle retention portions (14) and the handle members (12), as per claim 15
- The handle retention portions (14) define a transverse pivot axis, about which the handle assembly (12) pivots, as per claim 16
- The lever member (42) wedges between the handle members (12) and the retention portions (14), as per claim 18
- A lip (24) having a recess of which the first handle member (12) is biased, as per claim 19
- The first handle retention portion (14) is positioned immediately adjacent the first handle member (12), as per claim 20
- The first handle member (12) is biased towards the first handle retention portion (14), as per claim 21.

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8. Claims 1, 3, 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaley et al. 5,636,504.

9. Regarding claims 1, 3, 5-8, Kaley discloses a power unit, comprising:

- A housing (10)
- A lockable handle assembly (4) comprising
 - First and a second handle members (6) pivotally coupled to the housing
- A handle assembly release (24) comprising a release member (44) operable to impart a releasing force simultaneously to the handle members (6) to unlock the handle assembly (4) from the first operating position, the force at least partially reacted by the housing (10), as per claim 1
- First and second handle retention portions (36, 38, 50) for pivotally receiving the handle members (6), as per claim 3
- The retention portions (36, 38, 50) comprising a lip (44) against which the first handle member (6) is biased, comprising first and second recesses (38, 50), as per claims 5 and 6
- The releasing force comprises a force that displaces the handle members (6) relative to the retention portions (36, 38, 50), as per claim 7
- The releasing force comprising a force that displaces the handle members (6) transverse to a longitudinal axis of the unit, as per claim 8.

Allowable Subject Matter

10. Claims 13, 14, 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 22 is allowed.


Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bacon, Cook and Clemson have been cited as of interest.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.


Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671